



Working Lands Alliance
A Project of American Farmland Trust

To: Environment Committee

Date: Feb 23, 2009

Testimony in regards to:

SUPPORT - HB 5267 - AN ACT CONCERNING THE USE OF FUNDS UNDER THE SMALL TOWN ECONOMIC ASSISTANCE PROGRAM FOR PROJECTS THAT CONVERT FARMLAND TO OTHER USES

OPPOSE - HB 5002 AN ACT CONCERNING THE STATE ACQUISITION OF AGRICULTURAL DEVELOPMENT RIGHTS PROGRAM

Submitted by: Jiff Martin, Project Director, Working Lands Alliance

The following testimony is submitted on behalf of the Working Lands Alliance, a statewide coalition of over 600 individuals and 200 businesses and non-profits committed to increasing the state's commitment to farmland preservation.

1. Small Town Economic Assistance Program - funding priorities

WLA strongly supports HB 5267 and its intent to ensure that STEAP grants are subject to the same rules as all projects funded by state capital expenditures in regards to their potential impact on farmland.

In 1983 the CT General Assembly passed legislation amending the statutes regarding the State General Obligation Bond Procedures requiring "a statement from the Commissioner of Agriculture pursuant to section 22-6, for projects which would convert twenty-five or more acres of prime farmland to a nonagricultural use" (CGS 3-20(g)). In effect, this means that whenever the state uses capital funds for projects that impact 25 acres or more of farmland, before the project can proceed the Commissioner of Agriculture must provide a statement that the project promotes agriculture or agricultural land preservation or, if not, that there is no reasonable alternative site for the project.

In 2007, the CT Council on Environmental Quality reviewed Environmental Impact Evaluations for two STEAP funded projects in Cromwell and South Windsor that would convert over 100 acres of prime agricultural land, including active farms, to commercial or industrial uses (CT Council on Environmental Quality Memo, October 19, 2008). CEQ discovered a loophole in the STEAP program funding process whereby the State Bond Commission allocates one lump sum to DECD prior to grant selection, thereby circumventing 3-20(g). CEQ recommended legislation to amend the STEAP statute to require an agricultural review identical to the one for other capital projects.

WLA feels strongly that the policy embodied in CGS 3-20(g), intended to strengthen the state's policy on farmland preservation and limit the state's subsidization of farmland loss, should also apply to the STEAP program.

WLA is very pleased with HB 5267 which provides that **"no such grant shall be awarded for a project that converts prime farmland,"** unless the municipality takes mitigation action. According to HB 5267, mitigation is defined as: 1) permanently protecting an equivalent farmland parcel, or 2) taking action toward protecting farmland in the form of enacting a right-to-farm ordinance, establishing a farmland preservation fund, or adopting regulations for the transfer of development rights.

In principle, WLA believes that the use of ANY state funds for projects that convert prime farmland should be avoided. Moreover, as DECD, DoAG, and OPM have concluded through inter-agency discussions, the requirement of a costly Environmental Impact Evaluation for such projects that will convert farmland raises additional questions about efficient use of STEAP funding. Nevertheless, WLA accepts this mitigation clause in HB 5267, recognizing that in rare cases a town may feel it necessary to develop a farmland parcel and – in return for state assistance -- should be allowed to use certain actions as evidence of mitigation.

WLA recommends two small changes to the bill with regard to the mitigation requirements.

- The first is to clarify that any transfer of development rights bylaw recognized for the purpose of mitigation be one specifically designed for the purpose of agricultural land protection.
- The second is to require that a town enact at least two of the three cited mitigation measures. This would ensure that a town converting prime farmland with the help of state STEAP funds takes at least one action intended to permanently protect additional farmland in town.

2. Nursery Operations & State Acquisition of Development Rights

WLA opposes HB 5002 because the State program to preserve farmland was founded on the intent to invest in farmland currently producing food, with the understanding that this necessarily excludes certain categories of agriculture such as sod, equine, and nursery operations. Connecticut's substantial investment in farmland preservation has always been firmly guided by its focus on high quality soils that will be available for food production in perpetuity.

The state's decision to invest taxpayer dollars in farmland preservation began in 1974 with the *Report of the Governor's Task Force for the Preservation of Agricultural Land*. Responding to growing concern over higher food prices, the Task Force recommended protecting enough agricultural land to provide for about one third of the state's food consumption needs. Another report to the General Assembly in 1977 -- *Land for Growing Food* by Waggoner, Tuttle, and Hill -- laid the groundwork for establishing a pilot farmland preservation program in 1978. During the pilot program, an advisory report was provided in 1981 by Irving Fellows and Patrick

Cody of University of Connecticut – *A Food Production Plan for Connecticut, 1980-2000* – that helped establish acreage goals for the state's program. The advisory report emphasized:

To reap the maximum public benefits from farmland preservation program, the selected land should contribute to the food production potential and to environmental benefits in Connecticut. – Fellows and Cody, 1981

The proposed amendment in HB 5002 would prohibit the Commissioner from excluding greenhouses or nurseries from eligibility under the program. WLA recognizes that some land currently producing nursery crops may, in the future, be valuable for food production, and appreciates that greenhouses can be integral to food-producing farm operations. However, the bill's proposed prohibition is overly broad, and would appear to prevent the Department of Agriculture from determining the eligibility of farmland based on its viability for food production in the future. To protect the public's investment in the program, it is important that the Department retain an ability to reject an application for farmland that—by virtue of what has been grown on the property in the past or because of its current crops or degree of infrastructure—is unlikely to have the soils and productivity needed to sustain future food production.

The proposed amendment also grants the Commissioner the authority to require soil restoration and replacement on land upon which such nurseries and greenhouses are located. WLA strongly opposes this concept. Since 1978, Connecticut taxpayers have invested over \$105 million to protect 34,500 acres of prime and important farmland—farmland that is defined primarily by its soil type and productivity. WLA is concerned that this grant of authority envisions a process by which nursery and greenhouse operations could enroll in the program and continue agricultural practices that significantly impair the enrolled land's agricultural productivity so long as they restore or replace the soils. This seems a questionable investment of taxpayer resources, especially given the backlog of applications for the program for prime and important farmland that is currently being used for food and feed production that would not require soil restoration or replacement.

Finally, WLA is concerned that this grant of authority proposed in HB 5002 would affect land that has already been permanently protected through the program. Currently, the Department of Agriculture has the authority to both limit the amount of impervious surfaces coverage on a parcel of land enrolled in the program, and to prohibit practices that materially decrease the productivity of the land for crops. This amendment suggests that such practices could be allowed for nursery and greenhouse operations, whether or not the soil restoration or replacement returns the land to its original productivity.